

SECOND REGULAR SESSION

HOUSE BILL NO. 1819

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE QUADE.

4538H.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 105.955, RSMo, sections 105.959 and 105.961 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, section 105.959 as enacted by house bill no. 1900, ninety-third general assembly, second regular session, and section 105.961 as enacted by senate bill no. 16, eighty-ninth general assembly, first regular session, and to enact in lieu thereof three new sections relating to the ethics commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.955, RSMo, sections 105.959 and 105.961 as enacted by senate bill no. 844, ninety-fifth general assembly, second regular session, section 105.959 as enacted by house bill no. 1900, ninety-third general assembly, second regular session, and section 105.961 as enacted by senate bill no. 16, eighty-ninth general assembly, first regular session, are repealed and three new sections enacted in lieu thereof, to be known as sections 105.955, 105.959, and 105.961, to read as follows:

105.955. 1. A bipartisan "Missouri Ethics Commission", composed of six members, is hereby established. The commission shall be assigned to the office of administration with supervision by the office of administration only for budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the office of administration shall not extend to matters relating to policies, regulative functions or appeals from decisions of the commission, and the commissioner of administration, any employee of the office of administration, or the governor, either directly or indirectly, shall not participate or interfere with the activities of the commission in any manner not specifically provided by law and shall not in any manner interfere with the budget request of or withhold any moneys appropriated to the commission by the general assembly. All

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 members of the commission shall be appointed by the governor with the advice and consent of
12 the senate from lists submitted pursuant to this section. Each congressional district committee
13 of the political parties having the two highest number of votes cast for their candidate for
14 governor at the last gubernatorial election shall submit two names of eligible nominees for
15 membership on the commission to the governor, and the governor shall select six members from
16 such nominees to serve on the commission.

17 2. Within thirty days of submission of the person's name to the governor as provided in
18 subsection 1 of this section, and in order to be an eligible nominee for appointment to the
19 commission, a person shall file a financial interest statement in the manner provided by section
20 105.485 and shall provide the governor, the president pro tempore of the senate, and the
21 commission with a list of all political contributions and the name of the candidate or committee,
22 political party, or continuing committee, as defined in chapter 130, to which those contributions
23 were made within the four-year period prior to such appointment, made by the nominee, the
24 nominee's spouse, or any business entity in which the nominee has a substantial interest. The
25 information shall be maintained by the commission and available for public inspection during
26 the period of time during which the appointee is a member of the commission. In order to be an
27 eligible nominee for membership on the commission, a person shall be a citizen and a resident
28 of the state and shall have been a registered voter in the state for a period of at least five years
29 preceding the person's appointment.

30 3. The term of each member shall be for four years, except that of the members first
31 appointed, the governor shall select three members from even-numbered congressional districts
32 and three members from odd-numbered districts. Not more than three members of the
33 commission shall be members of the same political party, nor shall more than one member be
34 from any one United States congressional district. Not more than two members appointed from
35 the even-numbered congressional districts shall be members of the same political party, and no
36 more than two members from the odd-numbered congressional districts shall be members of the
37 same political party. Of the members first appointed, the terms of the members appointed from
38 the odd-numbered congressional districts shall expire on March 15, 1994, and the terms of the
39 members appointed from the even-numbered congressional districts shall expire on March 15,
40 1996. Thereafter all successor members of the commission shall be appointed for four-year
41 terms. Terms of successor members of the commission shall expire on March fifteenth of the
42 fourth year of their term. No member of the commission shall serve on the commission after the
43 expiration of the member's term. No person shall be appointed to more than one full four-year
44 term on the commission.

45 4. Vacancies or expired terms on the commission shall be filled in the same manner as
46 the original appointment was made, except as provided in this subsection. Within thirty days of

47 the vacancy or ninety days before the expiration of the term, the names of two eligible nominees
48 for membership on the commission shall be submitted to the governor by the congressional
49 district committees of the political party or parties of the vacating member or members, from the
50 even- or odd-numbered congressional districts, based on the residence of the vacating member
51 or members, other than from the congressional district committees from districts then represented
52 on the commission and from the same congressional district party committee or committees
53 which originally appointed the member or members whose positions are vacated. Appointments
54 to fill vacancies or expired terms shall be made within forty-five days after the deadline for
55 submission of names by the congressional district committees, and shall be subject to the same
56 qualifications for appointment and eligibility as is provided in subsections 2 and 3 of this section.
57 Appointments to fill vacancies for unexpired terms shall be for the remainder of the unexpired
58 term of the member whom the appointee succeeds, and such appointees shall be eligible for
59 appointment to one full four-year term. If the congressional district committee does not submit
60 the required two nominees within the thirty days or if the congressional district committee does
61 not submit the two nominees within an additional thirty days after receiving notice from the
62 governor to submit the nominees, then the governor may appoint a person or persons who shall
63 be subject to the same qualifications for appointment and eligibility as provided in subsections
64 2 and 3 of this section.

65 5. The governor, with the advice and consent of the senate, may remove any member
66 only for substantial neglect of duty, inability to discharge the powers and duties of office, gross
67 misconduct or conviction of a felony or a crime involving moral turpitude. Members of the
68 commission also may be removed from office by concurrent resolution of the general assembly
69 signed by the governor. If such resolution receives the vote of two-thirds or more of the
70 membership of both houses of the general assembly, the signature of the governor shall not be
71 necessary to effect removal. The office of any member of the commission who moves from the
72 congressional district from which the member was appointed shall be deemed vacated upon such
73 change of residence.

74 6. The commission shall elect biennially one of its members as the chairman. The
75 chairman may not succeed himself or herself after two years. No member of the commission
76 shall succeed as chairman any member of the same political party as himself or herself. At least
77 four members are necessary to constitute a quorum, and at least four affirmative votes shall be
78 required for any action or recommendation of the commission.

79 7. No member or employee of the commission, during the person's term of service, shall
80 hold or be a candidate for any other public office.

81 8. In the event that a retired judge is appointed as a member of the commission, the judge
82 shall not serve as a special investigator while serving as a member of the commission.

83 9. No member of the commission shall, during the member's term of service or within
84 one year thereafter:

85 (1) Be employed by the state or any political subdivision of the state;

86 (2) Be employed as a lobbyist;

87 (3) Serve on any other governmental board or commission;

88 (4) Be an officer of any political party or political organization;

89 (5) Permit the person's name to be used, or make contributions, in support of or in
90 opposition to any candidate or proposition;

91 (6) Participate in any way in any election campaign; except that a member or employee
92 of the commission shall retain the right to register and vote in any election, to express the
93 person's opinion privately on political subjects or candidates, to participate in the activities of
94 a civic, community, social, labor or professional organization and to be a member of a political
95 party.

96 10. Each member of the commission shall receive, as full compensation for the member's
97 services, the sum of one hundred dollars per day for each full day actually spent on work of the
98 commission, and the member's actual and necessary expenses incurred in the performance of the
99 member's official duties.

100 11. The commission shall appoint an executive director who shall serve subject to the
101 supervision of and at the pleasure of the commission, but in no event for more than six years.
102 The executive director shall be responsible for the administrative operations of the commission
103 and perform such other duties as may be delegated or assigned to the director by law or by rule
104 of the commission. The executive director shall employ staff and retain such contract services
105 as the director deems necessary, within the limits authorized by appropriations by the general
106 assembly.

107 12. Beginning on January 1, 1993, all lobbyist registration and expenditure reports filed
108 pursuant to section 105.473, financial interest statements filed pursuant to subdivision (1) of
109 section 105.489, and campaign finance disclosure reports filed other than with election
110 authorities or local election authorities as provided by section 130.026 shall be filed with the
111 commission.

112 13. Within sixty days of the initial meeting of the first commission appointed, the
113 commission shall obtain from the clerk of the supreme court or the state courts administrator a
114 list of retired appellate and circuit court judges who did not leave the judiciary as a result of
115 being defeated in an election. The executive director shall determine those judges who indicate
116 their desire to serve as special investigators and to investigate any and all complaints referred to
117 them by the commission. The executive director shall maintain an updated list of those judges
118 qualified and available for appointment to serve as special investigators. Such list shall be

119 updated at least annually. The commission shall refer complaints to such special investigators
120 on that list on a rotating schedule which ensures a random assignment of each special
121 investigator. Each special investigator shall receive only one unrelated investigation at a time
122 and shall not be assigned to a second or subsequent investigation until all other eligible
123 investigators on the list have been assigned to an investigation. In the event that no special
124 investigator is qualified or available to conduct a particular investigation, the commission may
125 appoint a special investigator to conduct such particular investigation.

126 14. The commission shall have the following duties and responsibilities relevant to the
127 impartial and effective enforcement of sections 105.450 to 105.496 and chapter 130, as provided
128 in sections 105.955 to 105.963:

129 (1) Receive and review complaints regarding alleged violation of sections 105.450 to
130 105.496 and chapter 130, conduct initial reviews and investigations regarding such complaints
131 as provided herein; refer complaints to appropriate prosecuting authorities and appropriate
132 disciplinary authorities along with recommendations for sanctions; and initiate judicial
133 proceedings as allowed by sections 105.955 to 105.963;

134 (2) Review and audit any reports and statements required by the campaign finance
135 disclosure laws contained in chapter 130, and financial interest disclosure laws or lobbyist
136 registration and reporting laws as provided by sections 105.470 to 105.492, for timeliness,
137 accuracy and completeness of content as provided in sections 105.955 to 105.963;

138 (3) **Direct independent investigations as described under subsection 2 of section**
139 **105.959;**

140 (4) Develop appropriate systems to file and maintain an index of all such reports and
141 statements to facilitate public access to such information, except as may be limited by
142 confidentiality requirements otherwise provided by law, including cross-checking of information
143 contained in such statements and reports. The commission may enter into contracts with the
144 appropriate filing officers to effectuate such system. Such filing officers shall cooperate as
145 necessary with the commission as reasonable and necessary to effectuate such purposes;

146 ~~[(4)]~~ (5) Provide information and assistance to lobbyists, elected and appointed officials,
147 and employees of the state and political subdivisions in carrying out the provisions of sections
148 105.450 to 105.496 and chapter 130;

149 ~~[(5)]~~ (6) Make recommendations to the governor and general assembly or any state
150 agency on the need for further legislation with respect to the ethical conduct of public officials
151 and employees and to advise state and local government in the development of local government
152 codes of ethics and methods of disclosing conflicts of interest as the commission may deem
153 appropriate to promote high ethical standards among all elected and appointed officials or
154 employees of the state or any political subdivision thereof and lobbyists;

155 ~~[(6)]~~ (7) Render advisory opinions as provided by this section;
156 ~~[(7)]~~ (8) Promulgate rules relating to the provisions of sections 105.955 to 105.963 and
157 chapter 130. All rules and regulations issued by the commission shall be prospective only in
158 operation;

159 ~~[(8)]~~ (9) Request and receive from the officials and entities identified in subdivision (6)
160 of section 105.450 designations of decision-making public servants.

161 15. In connection with such powers provided by sections 105.955 to 105.963 and chapter
162 130, the commission may:

163 (1) Subpoena witnesses and compel their attendance and testimony. Subpoenas shall be
164 served and enforced in the same manner provided by section 536.077;

165 (2) Administer oaths and affirmations;

166 (3) Take evidence and require by subpoena duces tecum the production of books, papers,
167 and other records relating to any matter being investigated or to the performance of the
168 commission's duties or exercise of its powers. Subpoenas duces tecum shall be served and
169 enforced in the same manner provided by section 536.077;

170 (4) Employ such personnel, including legal counsel, and contract for services including
171 legal counsel, within the limits of its appropriation, as it deems necessary provided such legal
172 counsel, either employed or contracted, represents the Missouri ethics commission before any
173 state agency or before the courts at the request of the Missouri ethics commission. Nothing in
174 this section shall limit the authority of the Missouri ethics commission as provided for in
175 subsection 2 of section 105.961; and

176 (5) Obtain information from any department, division or agency of the state or any
177 political subdivision reasonably calculated to lead to the discovery of evidence which will
178 reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to
179 105.963 and chapter 130.

180 16. (1) Upon written request for an advisory opinion received by the commission, and
181 if the commission determines that the person requesting the opinion would be directly affected
182 by the application of law to the facts presented by the requesting person, the commission shall
183 issue a written opinion advising the person who made the request, in response to the person's
184 particular request, regarding any issue that the commission can receive a complaint on pursuant
185 to section 105.957. The commission may decline to issue a written opinion by a vote of four
186 members and shall provide to the requesting person the reason for the refusal in writing. The
187 commission shall give an approximate time frame as to when the written opinion shall be issued.
188 Such advisory opinions shall be issued no later than ninety days from the date of receipt by the
189 commission. Such requests and advisory opinions, deleting the name and identity of the
190 requesting person, shall be compiled and published by the commission on at least an annual

basis. Advisory opinions issued by the commission shall be maintained and made available for public inspection and copying at the office of the commission during normal business hours. Any advisory opinion or portion of an advisory opinion rendered pursuant to this subsection shall be withdrawn by the commission if, after hearing thereon, the joint committee on administrative rules finds that such advisory opinion is beyond or contrary to the statutory authority of the commission or is inconsistent with the legislative intent of any law enacted by the general assembly, and after the general assembly, by concurrent resolution, votes to adopt the findings and conclusions of the joint committee on administrative rules. Any such concurrent resolution adopted by the general assembly shall be published at length by the commission in its publication of advisory opinions of the commission next following the adoption of such resolution, and a copy of such concurrent resolution shall be maintained by the commission, along with the withdrawn advisory opinion, in its public file of advisory opinions. The commission shall also send a copy of such resolution to the person who originally requested the withdrawn advisory opinion. Any advisory opinion issued by the ethics commission shall act as legal direction to any person requesting such opinion and no person shall be liable for relying on the opinion and it shall act as a defense of justification against prosecution. An advisory opinion of the commission shall not be withdrawn unless:

- (a) The authorizing statute is declared unconstitutional;
- (b) The opinion goes beyond the power authorized by statute; or
- (c) The authorizing statute is changed to invalidate the opinion.

(2) Upon request, the attorney general shall give the attorney general's opinion, without fee, to the commission, any elected official of the state or any political subdivision, any member of the general assembly, or any director of any department, division or agency of the state, upon any question of law regarding the effect or application of sections 105.450 to 105.496, or chapter 130. Such opinion need be in writing only upon request of such official, member or director, and in any event shall be rendered within sixty days that such request is delivered to the attorney general.

17. The state auditor and the state auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070 may audit the commission and in connection therewith may inspect materials relating to the functions of the commission. Such audit shall include a determination of whether appropriations were spent within the intent of the general assembly, but shall not extend to review of any file or document pertaining to any particular investigation, audit or review by the commission, an investigator or any staff or person employed by the commission or under the supervision of the commission or an investigator. The state auditor and any employee of the state auditor shall not disclose the identity of any person

who is or was the subject of an investigation by the commission and whose identity is not public information as provided by law.

18. From time to time but no more frequently than annually the commission may request the officials and entities described in subdivision (6) of section 105.450 to identify for the commission in writing those persons associated with such office or entity which such office or entity has designated as a decision-making public servant. Each office or entity delineated in subdivision (6) of section 105.450 receiving such a request shall identify those so designated within thirty days of the commission's request.

~~[105.959. 1. The executive director of the commission, under the supervision of the commission, shall review reports and statements filed with the commission or other appropriate officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130 for completeness, accuracy and timeliness of filing of the reports or statements and any records relating to the reports or statements; and upon review, if there are reasonable grounds to believe that a violation has occurred, shall conduct an investigation of such reports, statements, and records and assign a special investigator following the provisions of subsection 1 of section 105.961.~~

~~2. (1) If there are reasonable grounds to believe that a violation has occurred and after the commission unanimously votes to proceed with all six members voting, the executive director shall, without receipt of a complaint, conduct an independent investigation of any potential violations of the provisions of:~~

~~(a) The requirements imposed on lobbyists by sections 105.470 to 105.478;~~

~~(b) The financial interest disclosure requirements contained in sections 105.483 to 105.492;~~

~~(c) The campaign finance disclosure requirements contained in chapter 130;~~

~~(d) Any code of conduct promulgated by any department, division, or agency of state government, or by state institutions of higher education, or by executive order;~~

~~(e) The conflict of interest laws contained in sections 105.450 to 105.468 and section 171.181; and~~

~~(f) The provisions of the constitution or state statute or order, ordinance, or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions.~~

~~(2) If an investigation conducted under this subsection fails to establish reasonable grounds to believe that a violation has occurred, the investigation shall be terminated and the person who had been under investigation shall be notified of the reasons for the disposition of the complaint.~~

~~3. Upon findings of the appropriate filing officer which are reported to the commission in accordance with the provisions of section 130.056, the~~

35 ~~executive director shall investigate disclosure reports, statements and records~~
36 ~~pertaining to such findings within a reasonable time after receipt of the reports~~
37 ~~from the appropriate filing officer.~~

38 ~~4. The commission may make such investigations and inspections within~~
39 ~~or outside of this state as are necessary to determine compliance.~~

40 ~~5. The commission shall notify the person under investigation under this~~
41 ~~section, by registered mail, within five days of the decision to conduct such~~
42 ~~investigation and assign a special investigator following the provisions of~~
43 ~~subsection 1 of section 105.961.~~

44 ~~6. After completion of an investigation, the executive director shall~~
45 ~~provide a detailed report of such investigation to the commission. Upon~~
46 ~~determination that there are reasonable grounds to believe that a person has~~
47 ~~violated the requirements of sections 105.470, 105.483 to 105.492, or chapter~~
48 ~~130, by a vote of four members of the commission, the commission may refer the~~
49 ~~report with the recommendations of the commission to the appropriate~~
50 ~~prosecuting authority together with the details of the investigation by the~~
51 ~~commission as is provided in subsection 2 of section 105.961.~~

52 ~~7. All investigations by the executive director of an alleged violation~~
53 ~~shall be strictly confidential with the exception of notification of the commission~~
54 ~~and the complainant and the person under investigation. Revealing any such~~
55 ~~confidential investigation information shall be cause for removal or dismissal of~~
56 ~~the executive director or a commission member or employee.]~~

57

105.959. 1. The executive director of the commission, under the supervision of the
2 commission, shall review reports and statements filed with the commission or other appropriate
3 officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130 for completeness,
4 accuracy and timeliness of filing of the reports or statements, and upon review, if there are
5 reasonable grounds to believe that a violation has occurred, shall conduct an audit of such reports
6 and statements. All investigations by the executive director of an alleged violation shall be
7 strictly confidential with the exception of notification of the commission and the complainant
8 or the person under investigation. All investigations by the executive director shall be limited
9 to the information contained in the reports or statements. The commission shall notify the
10 complainant or the person under investigation, by registered mail, within five days of the
11 decision to conduct such investigation. Revealing any such confidential investigation
12 information shall be cause for removal or dismissal of the executive director or a commission
13 member or employee.

14 2. **(1) If there are reasonable grounds to believe that a violation has occurred and**
15 **after the commission unanimously votes to proceed with all six members voting, the**
16 **executive director shall, without receipt of a complaint, conduct an independent**
17 **investigation of any potential violations of the provisions of:**

- 18 **(a) The requirements imposed on lobbyists by sections 105.470 to 105.478;**
19 **(b) The financial interest disclosure requirements contained in sections 105.483 to**
20 **105.492;**
21 **(c) The campaign finance disclosure requirements contained in chapter 130;**
22 **(d) Any code of conduct promulgated by any department, division, or agency of**
23 **state government, by state institutions of higher education, or by executive order;**
24 **(e) The conflict of interest laws contained in sections 105.450 to 105.467 and section**
25 **171.181;**
26 **(f) The constitution or state statute relating to the official conduct of officials or**
27 **employees of the state;**
28 **(g) Any order, ordinance, or resolution of any political subdivision relating to the**
29 **official conduct of officials or employees of the political subdivision; and**
30 **(h) The requirements under article VIII, section 23 of the Constitution of Missouri.**
31 **(2) If an investigation conducted under this subsection fails to establish reasonable**
32 **grounds to believe that a violation has occurred, the investigation shall be terminated and**
33 **the person who had been under investigation shall be notified of the reasons for the**
34 **disposition of the investigation.**
35 **3. Upon findings of the appropriate filing officer which are reported to the commission**
36 **in accordance with the provisions of section 130.056, the executive director shall audit disclosure**
37 **reports, statements and records pertaining to such findings within a reasonable time after receipt**
38 **of the reports from the appropriate filing officer.**
39 ~~[3-]~~ **4. Upon a sworn written complaint of any natural person filed with the commission**
40 **pursuant to section 105.957, the commission shall audit and investigate alleged violations.**
41 **Within sixty days after receipt of a sworn written complaint alleging a violation, the executive**
42 **director shall notify the complainant in writing of the action, if any, the executive director has**
43 **taken and plans to take on the complaint. If an investigation conducted pursuant to this**
44 **subsection fails to establish reasonable grounds to believe that a violation has occurred, the**
45 **investigation shall be terminated and the complainant and the person who had been under**
46 **investigation shall be notified of the reasons for the disposition of the complaint.**
47 ~~[4-]~~ **5. The commission may make such investigations and inspections within or outside**
48 **of this state as are necessary to determine compliance.**
49 ~~[5-]~~ **6. If, during an audit or investigation, the commission determines that a formal**
50 **investigation is necessary, the commission shall assign the investigation to a special investigator**
51 **in the manner provided by subsection 1 of section 105.961.**
52 ~~[6-]~~ **7. After completion of an audit or investigation, the executive director shall provide**
53 **a detailed report of such audit or investigation to the commission. Upon determination that there**

54 are reasonable grounds to believe that a person has violated the requirements of sections
55 105.470, 105.483 to 105.492, or chapter 130, by a vote of four members of the commission, the
56 commission may refer the report with the recommendations of the commission to the appropriate
57 prosecuting authority together with a copy of the audit and the details of the investigation by the
58 commission as is provided in subsection 2 of section 105.961.

2 ~~[105.961. 1. Upon receipt of a complaint as described by section 105.957~~
3 ~~or upon notification by the commission of an investigation under subsection 5 of~~
4 ~~section 105.959, the commission shall assign the complaint or investigation to~~
5 ~~a special investigator, who may be a commission employee, who shall investigate~~
6 ~~and determine the merits of the complaint or investigation. Within ten days of~~
7 ~~such assignment, the special investigator shall review such complaint and~~
8 ~~disclose, in writing, to the commission any conflict of interest which the special~~
9 ~~investigator has or might have with respect to the investigation and subject~~
10 ~~thereof. Within ninety days of receipt of the complaint from the commission, the~~
11 ~~special investigator shall submit the special investigator's report to the~~
12 ~~commission. The commission, after review of such report, shall determine:~~

12 ~~————— (1) That there is reasonable grounds for belief that a violation has~~
13 ~~occurred; or~~

14 ~~————— (2) That there are no reasonable grounds for belief that a violation exists~~
15 ~~and the complaint or investigation shall be dismissed; or~~

16 ~~————— (3) That additional time is necessary to complete the investigation, and~~
17 ~~the status and progress of the investigation to date. The commission, in its~~
18 ~~discretion, may allow the investigation to proceed for no more than two~~
19 ~~additional successive periods of ninety days each, pending reports regarding the~~
20 ~~status and progress of the investigation at the end of each such period.~~

21 ~~————— 2. When the commission concludes, based on the report from the special~~
22 ~~investigator, or based on an investigation conducted pursuant to section 105.959,~~
23 ~~that there are reasonable grounds to believe that a violation of any criminal law~~
24 ~~has occurred, and if the commission believes that criminal prosecution would be~~
25 ~~appropriate upon a vote of four members of the commission, the commission~~
26 ~~shall refer the report to the Missouri office of prosecution services, prosecutors~~
27 ~~coordinators training council established in section 56.760, which shall submit~~
28 ~~a panel of five attorneys for recommendation to the court having criminal~~
29 ~~jurisdiction, for appointment of an attorney to serve as a special prosecutor;~~
30 ~~except that, the attorney general of Missouri or any assistant attorney general~~
31 ~~shall not act as such special prosecutor. The court shall then appoint from such~~
32 ~~panel a special prosecutor pursuant to section 56.110 who shall have all the~~
33 ~~powers provided by section 56.130. The court shall allow a reasonable and~~
34 ~~necessary attorney's fee for the services of the special prosecutor. Such fee shall~~
35 ~~be assessed as costs if a case is filed, or ordered by the court if no case is filed;~~
36 ~~and paid together with all other costs in the proceeding by the state, in accordance~~
37 ~~with rules and regulations promulgated by the state courts administrator, subject~~

38 to funds appropriated to the office of administration for such purposes. If the
39 commission does not have sufficient funds to pay a special prosecutor, the
40 commission shall refer the case to the prosecutor or prosecutors having criminal
41 jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute
42 the case due to a conflict of interest, the court may appoint a special prosecutor,
43 paid from county funds, upon appropriation by the county or the attorney general
44 to investigate and, if appropriate, prosecute the case. The special prosecutor or
45 prosecutor shall commence an action based on the report by the filing of an
46 information or seeking an indictment within sixty days of the date of such
47 prosecutor's appointment, or shall file a written statement with the commission
48 explaining why criminal charges should not be sought. If the special prosecutor
49 or prosecutor fails to take either action required by this subsection, upon request
50 of the commission, a new special prosecutor, who may be the attorney general,
51 shall be appointed. The report may also be referred to the appropriate
52 disciplinary authority over the person who is the subject of the report.

53 3. When the commission concludes, based on the report from the special
54 investigator or based on an investigation conducted pursuant to section 105.959,
55 that there are reasonable grounds to believe that a violation of any law has
56 occurred which is not a violation of criminal law or that criminal prosecution is
57 not appropriate, the commission shall conduct a hearing which shall be a closed
58 meeting and not open to the public. The hearing shall be conducted pursuant to
59 the procedures provided by sections 536.063 to 536.090 and shall be considered
60 to be a contested case for purposes of such sections. The commission shall
61 determine, in its discretion, whether or not that there is probable cause that a
62 violation has occurred. If the commission determines, by a vote of at least four
63 members of the commission, that probable cause exists that a violation has
64 occurred, the commission may refer its findings and conclusions to the
65 appropriate disciplinary authority over the person who is the subject of the report,
66 as described in subsection 8 of this section.

67 4. If the appropriate disciplinary authority receiving a report from the
68 commission pursuant to subsection 3 of this section fails to follow, within sixty
69 days of the receipt of the report, the recommendations contained in the report, or
70 if the commission determines, by a vote of at least four members of the
71 commission that some action other than referral for criminal prosecution or for
72 action by the appropriate disciplinary authority would be appropriate, the
73 commission shall take any one or more of the following actions:

74 (1) Notify the person to cease and desist violation of any provision of law
75 which the report concludes was violated and that the commission may seek
76 judicial enforcement of its decision pursuant to subsection 5 of this section;

77 (2) Notify the person of the requirement to file, amend or correct any
78 report, statement, or other document or information required by sections 105.473,
79 105.483 to 105.492, or chapter 130 and that the commission may seek judicial
80 enforcement of its decision pursuant to subsection 5 of this section; and

81 ~~————— (3) File the report with the executive director to be maintained as a public~~
82 ~~document; or~~
83 ~~————— (4) Issue a letter of concern or letter of reprimand to the person, which~~
84 ~~would be maintained as a public document; or~~
85 ~~————— (5) Issue a letter that no further action shall be taken, which would be~~
86 ~~maintained as a public document; or~~
87 ~~————— (6) Through reconciliation agreements or action of the commission, the~~
88 ~~power to seek fees for violations in an amount not greater than one thousand~~
89 ~~dollars or double the amount involved in the violation.~~
90 ~~————— 5. Upon vote of at least four members, the commission may initiate~~
91 ~~formal judicial proceedings in the circuit court of Cole County seeking to obtain~~
92 ~~any of the following orders:~~
93 ~~————— (1) Cease and desist violation of any provision of sections 105.450 to~~
94 ~~105.496, or chapter 130, or sections 105.955 to 105.963;~~
95 ~~————— (2) Pay any civil penalties required by sections 105.450 to 105.496 or~~
96 ~~chapter 130;~~
97 ~~————— (3) File any reports, statements, or other documents or information~~
98 ~~required by sections 105.450 to 105.496, or chapter 130; or~~
99 ~~————— (4) Pay restitution for any unjust enrichment the violator obtained as a~~
100 ~~result of any violation of any criminal statute as described in subsection 7 of this~~
101 ~~section.~~
102 ~~————— 6. After the commission determines by a vote of at least four members~~
103 ~~of the commission that a violation has occurred, other than a referral for criminal~~
104 ~~prosecution, and the commission has referred the findings and conclusions to the~~
105 ~~appropriate disciplinary authority over the person who is the subject of the report,~~
106 ~~or has taken an action under subsection 4 of this section, the subject of the report~~
107 ~~may appeal the determination of the commission to the circuit court of Cole~~
108 ~~County. The court shall conduct a de novo review of the determination of the~~
109 ~~commission. Such appeal shall stay the action of the Missouri ethics~~
110 ~~commission. Such appeal shall be filed not later than the fourteenth day after the~~
111 ~~subject of the commission's action receives actual notice of the commission's~~
112 ~~action. If a petition for judicial review of a final order is not filed as provided in~~
113 ~~this section or when an order for fees under subsection 4 of this section becomes~~
114 ~~final following an appeal to the circuit court of Cole County, the commission~~
115 ~~may file a certified copy of the final order with the circuit court of Cole County.~~
116 ~~When any order for fees under subsection 4 of this section becomes final, the~~
117 ~~commission may file a certified copy of the final order with the circuit court of~~
118 ~~Cole County. The order so filed shall have the same effect as a judgment of the~~
119 ~~court and may be recorded, enforced, or satisfied in the same manner as a~~
120 ~~judgment of the court.~~
121 ~~————— 7. In the proceeding in the circuit court of Cole County, the commission~~
122 ~~may seek restitution against any person who has obtained unjust enrichment as~~
123 ~~a result of violation of any provision of sections 105.450 to 105.496, or chapter~~

130 and may recover on behalf of the state or political subdivision with which the alleged violator is associated, damages in the amount of any unjust enrichment obtained and costs and attorney's fees as ordered by the court.

8. The appropriate disciplinary authority to whom a report shall be sent pursuant to subsection 2 or 3 of this section shall include, but not be limited to, the following:

(1) In the case of a member of the general assembly, the ethics committee of the house of which the subject of the report is a member;

(2) In the case of a person holding an elective office or an appointive office of the state, if the alleged violation is an impeachable offense, the report shall be referred to the ethics committee of the house of representatives;

(3) In the case of a person holding an elective office of a political subdivision, the report shall be referred to the governing body of the political subdivision;

(4) In the case of any officer or employee of the state or of a political subdivision, the report shall be referred to the person who has immediate supervisory authority over the employment by the state or by the political subdivision of the subject of the report;

(5) In the case of a judge of a court of law, the report shall be referred to the commission on retirement, removal and discipline, or if the inquiry involves an employee of the judiciary to the applicable presiding judge;

(6) In the case of a person holding an appointive office of the state, if the alleged violation is not an impeachable offense, the report shall be referred to the governor;

(7) In the case of a statewide elected official, the report shall be referred to the attorney general;

(8) In a case involving the attorney general, the report shall be referred to the prosecuting attorney of Cole County.

9. The special investigator having a complaint referred to the special investigator by the commission shall have the following powers:

(1) To request and shall be given access to information in the possession of any person or agency which the special investigator deems necessary for the discharge of the special investigator's responsibilities;

(2) To examine the records and documents of any person or agency; unless such examination would violate state or federal law providing for confidentiality;

(3) To administer oaths and affirmations;

(4) Upon refusal by any person to comply with a request for information relevant to an investigation, an investigator may issue a subpoena for any person to appear and give testimony, or for a subpoena duces tecum to produce documentary or other evidence which the investigator deems relevant to a matter under the investigator's inquiry. The subpoenas and subpoenas duces tecum may be enforced by applying to a judge of the circuit court of Cole County or any

167 county where the person or entity that has been subpoenaed resides or may be
168 found, for an order to show cause why the subpoena or subpoena duces tecum
169 should not be enforced. The order and a copy of the application therefor shall be
170 served in the same manner as a summons in a civil action, and if, after hearing,
171 the court determines that the subpoena or subpoena duces tecum should be
172 sustained and enforced, the court shall enforce the subpoena or subpoena duces
173 tecum in the same manner as if it had been issued by the court in a civil action;
174 and

175 ~~————— (5) To request from the commission such investigative, clerical or other~~
176 ~~staff assistance or advancement of other expenses which are necessary and~~
177 ~~convenient for the proper completion of an investigation. Within the limits of~~
178 ~~appropriations to the commission, the commission may provide such assistance,~~
179 ~~whether by contract to obtain such assistance or from staff employed by the~~
180 ~~commission, or may advance such expenses.~~

181 ~~————— 10. (1) Any retired judge may request in writing to have the judge's name~~
182 ~~removed from the list of special investigators subject to appointment by the~~
183 ~~commission or may request to disqualify himself or herself from any~~
184 ~~investigation. Such request shall include the reasons for seeking removal;~~

185 ~~————— (2) By vote of four members of the commission, the commission may~~
186 ~~disqualify a judge from a particular investigation or may permanently remove the~~
187 ~~name of any retired judge from the list of special investigators subject to~~
188 ~~appointment by the commission.~~

189 ~~————— 11. Any person who is the subject of any investigation pursuant to this~~
190 ~~section shall be entitled to be represented by counsel at any proceeding before the~~
191 ~~special investigator or the commission.~~

192 ~~————— 12. The provisions of sections 105.957, 105.959 and 105.961 are in~~
193 ~~addition to other provisions of law under which any remedy or right of appeal or~~
194 ~~objection is provided for any person, or any procedure provided for inquiry or~~
195 ~~investigation concerning any matter. The provisions of this section shall not be~~
196 ~~construed to limit or affect any other remedy or right of appeal or objection.~~

197 ~~————— 13. No person shall be required to make or file a complaint to the~~
198 ~~commission as a prerequisite for exhausting the person's administrative remedies~~
199 ~~before pursuing any civil cause of action allowed by law.~~

200 ~~————— 14. If, in the opinion of the commission, the complaining party was~~
201 ~~motivated by malice or reason contrary to the spirit of any law on which such~~
202 ~~complaint was based, in filing the complaint without just cause, this finding shall~~
203 ~~be reported to appropriate law enforcement authorities. Any person who~~
204 ~~knowingly files a complaint without just cause, or with malice, is guilty of a class~~
205 ~~A misdemeanor.~~

206 ~~————— 15. A respondent party who prevails in a formal judicial action brought~~
207 ~~by the commission shall be awarded those reasonable fees and expenses incurred~~
208 ~~by that party in the formal judicial action, unless the court finds that the position~~

209 of the commission was substantially justified or that special circumstances make
210 such an award unjust.

211 ~~16. The special investigator and members and staff of the commission~~
212 ~~shall maintain confidentiality with respect to all matters concerning a complaint,~~
213 ~~with the exception of communications with any person which are necessary to the~~
214 ~~investigation. Any person who violates the confidentiality requirements imposed~~
215 ~~by this section or subsection 17 of section 105.955 required to be confidential is~~
216 ~~guilty of a class A misdemeanor and shall be subject to removal from or~~
217 ~~termination of employment by the commission.~~

218 ~~17. Any judge of the court of appeals or circuit court who ceases to hold~~
219 ~~such office by reason of the judge's retirement and who serves as a special~~
220 ~~investigator pursuant to this section shall receive annual compensation, salary or~~
221 ~~retirement for such services at the rates of compensation provided for senior~~
222 ~~judges by subsections 1, 2 and 4 of section 476.682. Such retired judges shall by~~
223 ~~the tenth day of each month following any month in which the judge provided~~
224 ~~services pursuant to this section certify to the commission and to the state courts~~
225 ~~administrator the amount of time engaged in such services by hour or fraction~~
226 ~~thereof, the dates thereof, and the expenses incurred and allowable pursuant to~~
227 ~~this section. The commission shall then issue a warrant to the state treasurer for~~
228 ~~the payment of the salary and expenses to the extent, and within limitations,~~
229 ~~provided for in this section. The state treasurer upon receipt of such warrant shall~~
230 ~~pay the same out of any appropriations made for this purpose on the last day of~~
231 ~~the month during which the warrant was received by the state treasurer.]~~
232

105.961. 1. Upon receipt of a complaint as described by section 105.957, the
2 commission shall assign the complaint to a special investigator, who may be a commission
3 employee, who shall investigate and determine the merits of the complaint. Within ten days of
4 such assignment, the special investigator shall review such complaint and disclose, in writing,
5 to the commission any conflict of interest which the special investigator has or might have with
6 respect to the investigation and subject thereof. Within one hundred twenty days of receipt of
7 the complaint from the commission, the special investigator shall submit the special
8 investigator's report to the commission. The commission, after review of such report, shall
9 determine:

10 (1) That there is reasonable grounds for belief that a violation has occurred; or

11 (2) That there are no reasonable grounds for belief that a violation exists and the
12 complaint should be dismissed; or

13 (3) That additional time is necessary to complete the investigation, and the status and
14 progress of the investigation to date. The commission, in its discretion, may allow the
15 investigation to proceed for additional successive periods of one hundred twenty days each,

16 pending reports regarding the status and progress of the investigation at the end of each such
17 period.

18 2. When the commission concludes, based on the report from the special investigator,
19 or based on an audit **or investigation** conducted pursuant to section 105.959, that there are
20 reasonable grounds to believe that a violation of any criminal law has occurred, and if the
21 commission believes that criminal prosecution would be appropriate upon a vote of four
22 members of the commission, the commission shall refer the report to the Missouri office of
23 prosecution services, prosecutors coordinators training council established in section 56.760,
24 which shall submit a panel of five attorneys for recommendation to the court having criminal
25 jurisdiction, for appointment of an attorney to serve as a special prosecutor; except that, the
26 attorney general of Missouri or any assistant attorney general shall not act as such special
27 prosecutor. The court shall then appoint from such panel a special prosecutor pursuant to section
28 56.110 who shall have all the powers provided by section 56.130. The court shall allow a
29 reasonable and necessary attorney's fee for the services of the special prosecutor. Such fee shall
30 be assessed as costs if a case is filed, or ordered by the court if no case is filed, and paid together
31 with all other costs in the proceeding by the state, in accordance with rules and regulations
32 promulgated by the state courts administrator, subject to funds appropriated to the office of
33 administration for such purposes. If the commission does not have sufficient funds to pay a
34 special prosecutor, the commission shall refer the case to the prosecutor or prosecutors having
35 criminal jurisdiction. If the prosecutor having criminal jurisdiction is not able to prosecute the
36 case due to a conflict of interest, the court may appoint a special prosecutor, paid from county
37 funds, upon appropriation by the county or the attorney general to investigate and, if appropriate,
38 prosecute the case. The special prosecutor or prosecutor shall commence an action based on the
39 report by the filing of an information or seeking an indictment within sixty days of the date of
40 such prosecutor's appointment, or shall file a written statement with the commission explaining
41 why criminal charges should not be sought. If the special prosecutor or prosecutor fails to take
42 either action required by this subsection, upon request of the commission, a new special
43 prosecutor, who may be the attorney general, shall be appointed. The report may also be referred
44 to the appropriate disciplinary authority over the person who is the subject of the report.

45 3. When the commission concludes, based on the report from the special investigator or
46 based on an audit **or investigation** conducted pursuant to section 105.959, that there are
47 reasonable grounds to believe that a violation of any law has occurred which is not a violation
48 of criminal law or that criminal prosecution is not appropriate, the commission shall conduct a
49 hearing which shall be a closed meeting and not open to the public. The hearing shall be
50 conducted pursuant to the procedures provided by sections 536.063 to 536.090 and shall be
51 considered to be a contested case for purposes of such sections. The commission shall

determine, in its discretion, whether or not that there is probable cause that a violation has occurred. If the commission determines, by a vote of at least four members of the commission, that probable cause exists that a violation has occurred, the commission may refer its findings and conclusions to the appropriate disciplinary authority over the person who is the subject of the report, as described in subsection 7 of this section. After the commission determines by a vote of at least four members of the commission that probable cause exists that a violation has occurred, and the commission has referred the findings and conclusions to the appropriate disciplinary authority over the person subject of the report, the subject of the report may appeal the determination of the commission to the administrative hearing commission. Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed not later than the fourteenth day after the subject of the commission's action receives actual notice of the commission's action.

4. If the appropriate disciplinary authority receiving a report from the commission pursuant to subsection 3 of this section fails to follow, within sixty days of the receipt of the report, the recommendations contained in the report, or if the commission determines, by a vote of at least four members of the commission that some action other than referral for criminal prosecution or for action by the appropriate disciplinary authority would be appropriate, the commission shall take any one or more of the following actions:

(1) Notify the person to cease and desist violation of any provision of law which the report concludes was violated and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section;

(2) Notify the person of the requirement to file, amend or correct any report, statement, or other document or information required by sections 105.473, 105.483 to 105.492, or chapter 130 and that the commission may seek judicial enforcement of its decision pursuant to subsection 5 of this section; and

(3) File the report with the executive director to be maintained as a public document; or

(4) Issue a letter of concern or letter of reprimand to the person, which would be maintained as a public document; or

(5) Issue a letter that no further action shall be taken, which would be maintained as a public document; or

(6) Through reconciliation agreements or civil action, the power to seek fees for violations in an amount not greater than one thousand dollars or double the amount involved in the violation.

5. Upon vote of at least four members, the commission may initiate formal judicial proceedings seeking to obtain any of the following orders:

87 (1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter
88 130, or sections 105.955 to 105.963;

89 (2) Pay any civil penalties required by sections 105.450 to 105.496 or chapter 130;

90 (3) File any reports, statements, or other documents or information required by sections
91 105.450 to 105.496, or chapter 130; or

92 (4) Pay restitution for any unjust enrichment the violator obtained as a result of any
93 violation of any criminal statute as described in subsection 6 of this section.

94

95 The Missouri ethics commission shall give actual notice to the subject of the complaint of the
96 proposed action as set out in this section. The subject of the complaint may appeal the action
97 of the Missouri ethics commission, other than a referral for criminal prosecution, to the
98 administrative hearing commission. Such appeal shall stay the action of the Missouri ethics
99 commission. Such appeal shall be filed no later than fourteen days after the subject of the
100 commission's actions receives actual notice of the commission's actions.

101 6. In the proceeding in circuit court, the commission may seek restitution against any
102 person who has obtained unjust enrichment as a result of violation of any provision of sections
103 105.450 to 105.496, or chapter 130 and may recover on behalf of the state or political
104 subdivision with which the alleged violator is associated, damages in the amount of any unjust
105 enrichment obtained and costs and attorney's fees as ordered by the court.

106 7. The appropriate disciplinary authority to whom a report shall be sent pursuant to
107 subsection 2 or 3 of this section shall include, but not be limited to, the following:

108 (1) In the case of a member of the general assembly, the ethics committee of the house
109 of which the subject of the report is a member;

110 (2) In the case of a person holding an elective office or an appointive office of the state,
111 if the alleged violation is an impeachable offense, the report shall be referred to the ethics
112 committee of the house of representatives;

113 (3) In the case of a person holding an elective office of a political subdivision, the report
114 shall be referred to the governing body of the political subdivision;

115 (4) In the case of any officer or employee of the state or of a political subdivision, the
116 report shall be referred to the person who has immediate supervisory authority over the
117 employment by the state or by the political subdivision of the subject of the report;

118 (5) In the case of a judge of a court of law, the report shall be referred to the commission
119 on retirement, removal and discipline, or if the inquiry involves an employee of the judiciary to
120 the applicable presiding judge;

121 (6) In the case of a person holding an appointive office of the state, if the alleged
122 violation is not an impeachable offense, the report shall be referred to the governor;

123 (7) In the case of a statewide elected official, the report shall be referred to the attorney
124 general;

125 (8) In a case involving the attorney general, the report shall be referred to the prosecuting
126 attorney of Cole County.

127 8. The special investigator having a complaint referred to the special investigator by the
128 commission shall have the following powers:

129 (1) To request and shall be given access to information in the possession of any person
130 or agency which the special investigator deems necessary for the discharge of the special
131 investigator's responsibilities;

132 (2) To examine the records and documents of any person or agency, unless such
133 examination would violate state or federal law providing for confidentiality;

134 (3) To administer oaths and affirmations;

135 (4) Upon refusal by any person to comply with a request for information relevant to an
136 investigation, an investigator may issue a subpoena for any person to appear and give testimony,
137 or for a subpoena duces tecum to produce documentary or other evidence which the investigator
138 deems relevant to a matter under the investigator's inquiry. The subpoenas and subpoenas duces
139 tecum may be enforced by applying to a judge of the circuit court of Cole County or any county
140 where the person or entity that has been subpoenaed resides or may be found, for an order to
141 show cause why the subpoena or subpoena duces tecum should not be enforced. The order and
142 a copy of the application therefor shall be served in the same manner as a summons in a civil
143 action, and if, after hearing, the court determines that the subpoena or subpoena duces tecum
144 should be sustained and enforced, the court shall enforce the subpoena or subpoena duces tecum
145 in the same manner as if it had been issued by the court in a civil action; and

146 (5) To request from the commission such investigative, clerical or other staff assistance
147 or advancement of other expenses which are necessary and convenient for the proper completion
148 of an investigation. Within the limits of appropriations to the commission, the commission may
149 provide such assistance, whether by contract to obtain such assistance or from staff employed
150 by the commission, or may advance such expenses.

151 9. (1) Any retired judge may request in writing to have the judge's name removed from
152 the list of special investigators subject to appointment by the commission or may request to
153 disqualify himself or herself from any investigation. Such request shall include the reasons for
154 seeking removal;

155 (2) By vote of four members of the commission, the commission may disqualify a judge
156 from a particular investigation or may permanently remove the name of any retired judge from
157 the list of special investigators subject to appointment by the commission.

10. Any person who is the subject of any investigation pursuant to this section shall be entitled to be represented by counsel at any proceeding before the special investigator or the commission.

11. The provisions of sections 105.957, 105.959 and 105.961 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. The provisions of this section shall not be construed to limit or affect any other remedy or right of appeal or objection.

12. No person shall be required to make or file a complaint to the commission as a prerequisite for exhausting the person's administrative remedies before pursuing any civil cause of action allowed by law.

13. If, in the opinion of the commission, the complaining party was motivated by malice or reason contrary to the spirit of any law on which such complaint was based, in filing the complaint without just cause, this finding shall be reported to appropriate law enforcement authorities. Any person who knowingly files a complaint without just cause, or with malice, is guilty of a class A misdemeanor.

14. A respondent party who prevails in a formal judicial action brought by the commission shall be awarded those reasonable fees and expenses incurred by that party in the formal judicial action, unless the court finds that the position of the commission was substantially justified or that special circumstances make such an award unjust.

15. The special investigator and members and staff of the commission shall maintain confidentiality with respect to all matters concerning a complaint until and if a report is filed with the commission, with the exception of communications with any person which are necessary to the investigation. The report filed with the commission resulting from a complaint acted upon under the provisions of this section shall not contain the name of the complainant or other person providing information to the investigator, if so requested in writing by the complainant or such other person. Any person who violates the confidentiality requirements imposed by this section or subsection 17 of section 105.955 ~~[required to be confidential]~~ is guilty of a class A misdemeanor and shall be subject to removal from or termination of employment by the commission.

16. Any judge of the court of appeals or circuit court who ceases to hold such office by reason of the judge's retirement and who serves as a special investigator pursuant to this section shall receive annual compensation, salary or retirement for such services at the rates of compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682. Such retired judges shall by the tenth day of each month following any month in which the judge provided services pursuant to this section certify to the commission and to the state courts

194 administrator the amount of time engaged in such services by hour or fraction thereof, the dates
195 thereof, and the expenses incurred and allowable pursuant to this section. The commission shall
196 then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent,
197 and within limitations, provided for in this section. The state treasurer upon receipt of such
198 warrant shall pay the same out of any appropriations made for this purpose on the last day of the
199 month during which the warrant was received by the state treasurer.

✓